

Remarks

Reconsideration of this Application is respectfully requested. Claims 1-45 are pending, with claims 1, 10, 24, 34 and 35 being the independent claims. Only claim 32 is amended, to correct a typographical error. Applicant respectfully requests that the Examiner reconsider and withdraw all outstanding rejections.

Claim Rejections Under 35 U.S.C. § 103(a)

Claims 1, 41-42 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over certain prior art cited in Information Disclosure Statements filed by Applicant (referred to by the Examiner as "Applicant's Admitted Prior Art") ("AAPA") in view of U.S. Patent Publication No. 2003/0205230 A1 to Shusterman et al. ("Shusterman").

Claims 6-9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over AAPA in view of Shusterman and further in view of U.S. Patent Publication No. 2004/0261796 A1 to Butler ("Butler").

Claims 10, 15-39 and 43-45 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over AAPA in view of Shusterman and further in view of Butler and U.S. Patent No. 5,727,950 to Cook et al. ("Cook").

Claims 2-5 and 11-14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over AAPA in view of Shusterman in view of Butler and Cook and further in view of U.S. Patent No. 4,227,524 to Galerne ("Galerne")

Claim 40 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over AAPA in view of Shusterman and further in view of U.S. Patent No. 4,777,974 to Swift ("Swift")

Each of these rejections is addressed below.

Claim 1 and its Dependent Claims are Allowable

Independent claim 1 recites, in part, “a user sensor capable of measuring one or more parameters of a user’s body condition, said user sensor being in electrical communication with said on-board interface” and “said on-board interface configured to execute a session of cyclic variations in altitude conditioning upon initiation by a user at a first time period, said session including a predetermined program configured to regulate cyclic variations of altitude within said pressure vessel, said on-board interface configured to cause a change to said predetermined program at a second time period based on a signal received from said user sensor.” Neither AAPA nor Shusterman, alone or combined, disclose or suggest such an apparatus.

Specifically, as conceded by the Examiner, AAPA does not disclose or suggest a user sensor capable of measuring one or more parameters of a user’s body condition (see Office Action page 3) or an on-board interface in electrical communication with a user sensor and configured to alter a session of cyclic variations in altitude conditioning (see Office Action, page 10), as recited in claim 1.

Shusterman discloses an ambient pressure control ventilation apparatus for mechanical respiratory assistance that includes a chamber 5. The chamber 5 includes a communication block 8 that is designed to enable safe passage of monitoring lines from the patient’s body and lines 6 from sensors 16 in the patient’s airway to a control unit 1 disposed exterior to the chamber 5. The control unit 1 can display parameters collected from the monitoring lines 4 and endotracheal tube sensors lines 6. Although Shusterman discloses sensors 16, Shusterman does not disclose or suggest using information from the sensors 16 to alter the pressure within the chamber 5. Shusterman also does not disclose or suggest an “on-board interface configured to initiate a session of cyclic variations in altitude conditioning upon initiation by a user at a first time period, said session including a predetermined program configured to regulate cyclic variations of altitude within said pressure vessel, said on-board interface configured to cause a change to said predetermined program at a second time period based on a signal received from said user sensor,” as recited in claim 1.

None of Butler, Cook, Galerne or Swift, cited by the Examiner in combination with AAPA and Shusterman as disclosing various claims dependent on claim 1, remedy the deficiencies of AAPA and Shusterman. Cook merely discloses a computer system and fails to disclose or suggest a pressure vessel of any type. Butler and Swift also fail to disclose or suggest a user sensor or an on-board interface, as recited in claim 1. Galerne merely discloses a second hyperbaric chamber with a set of controls located outside the second chamber and a set of controls located inside the second chamber and fails to disclose a user sensor or an on-board interface that can alter a session of cyclic variations in altitude conditioning based on a signal received from a user sensor. The Applicant respectfully asserts that the gap between AAPA in view of Shusterman, Butler, Cook, Galerne or Swift and the currently pending claims is “so great as to render the [claims] nonobvious to one reasonably skilled in the art.”¹

Accordingly, for at least the above reasons, the Applicant respectfully submits that independent claim 1 is allowable over the cited references. Based at least upon their dependence on independent claim 1, claims 2-9 and 40-42 are also allowable.

Claim 10 and its Dependent Claims are Allowable

Claim 10 recites, in part, “said user sensor being in electrical communication with said on-board interface, said on-board interface configured to initiate a session of cyclic variations in altitude conditioning upon initiation by a user at a first time period, ... said on-board interface configured to cause a change to said predetermined program at a second time period based on a signal received from said user sensor.” None of AAPA, Shusterman, Butler, Cook or Galerne, alone or combined, disclose or suggest such an apparatus. The Applicant respectfully asserts that the gap between AAPA in view of Shusterman, Butler, Cook or Galerne and the currently pending claims is “so great as to render the [claims] nonobvious to one reasonably skilled in the art.”²

¹ *Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 In View of the Supreme Court Decision in KSR International Co. v. Teleflex, Inc.*, 72 Fed. Reg. 195, pages 57528-529 (stating that the Examiner must provide an explicit analysis supporting a *prima facie* obviousness rejection under 35 U.S.C. § 103 and cautioning that the gap between the prior art and the claimed invention may not be so great “as to render the [claim] nonobvious to one reasonably skilled in the art.”).

² *Id.*

Specifically, for similar reasons as discussed above for claim 1, neither AAPA nor Shusterman disclose or suggest a user sensor in electrical communication with an on-board interface or an on-board interface that can alter a session of cyclic variations in altitude conditioning based on a signal received from the user sensor, as recited in claim 10. As discussed above for claim 1, none of the cited references remedy the deficiencies of AAPA and Shusterman.

Accordingly, for at least the above reasons, the Applicant respectfully submits that independent claim 10 is allowable over the cited references. Based at least upon their dependence on independent claim 10, claims 11-23 and 43 are also allowable.

Claim 24 and its Dependent Claims are Allowable

Claim 24 recites, in part, “said user sensor being in electrical communication with said on-board interface, said on-board interface configured to initiate a session of cyclic variations in altitude conditioning upon initiation by a user at a first time period, said session including a predetermined program configured to regulate cyclic variations of altitude within said pressure vessel unit, said on-board interface configured to cause a change to said predetermined program at a second time period based on a signal received from said user sensor.” For similar reasons as discussed above for claims 1 and 10, none of AAPA, Shusterman, Butler or Cook, alone or combined, disclose or suggest such a method. Specifically, the cited references do not disclose or suggest a method of “making a system for cyclic variations in altitude conditioning available to a user” where the system includes a pressure vessel unit having a user sensor and on-board interface as recited in claim 24, as amended. The Applicant respectfully asserts that the gap between AAPA in view of Shusterman, Butler or Cook and the currently pending claims is “so great as to render the [claims] nonobvious to one reasonably skilled in the art.”³

Accordingly, for at least the above reasons, the Applicant respectfully submits that independent claim 24 is allowable over the cited references. Based at least upon their dependence on independent claim 24, claims 25-33 are also allowable.

³ *Id.*

Claim 34 and its Dependent Claims are Allowable

Claim 34 recites, in part, “measuring via a user sensor at least one parameter of a user's body condition during said session; and determining whether a value of said at least one measured parameter is within a predetermined range, and if within said predetermined range, allowing said predetermined program to continue, and if not within said predetermined range, modifying said predetermined program in real time, said modification based at least in part upon the user's categorization and said value of said at least one measured parameter.” None of AAPA, Shusterman, Butler or Cook, alone or combined, disclose or suggest such a method.

Specifically, for similar reasons as discussed above for claims 1, 10 and 24, none of the cited references disclose or suggest a method that includes modifying a predetermined program of cyclic variations in altitude conditioning based on a value of at least one measured parameter of a user's body condition, as recited in claim 34. Further, none of the cited references disclose or suggest “classifying a user into one of a predetermined number of body type categories” and “selecting a cyclic variations in altitude conditioning program based upon the user's categorization” as recited in claim 34. The Applicant respectfully asserts that the gap between AAPA in view of Shusterman, Butler or Cook and the currently pending claims is “so great as to render the [claims] nonobvious to one reasonably skilled in the art.”⁴

The Examiner asserts that “Cook discloses that programs are designed based on the user's data” and that it would have been obvious “to have supplemented the invention by using user data (profiles) to create specific treatments based on the user's data” (see Office Action, page 9). The Applicant respectfully disagrees with this assertion.

The Examiner relies on Cook, col. 17, ll. 40-48 reproduced below.

Agent software 225, certain parts of student data object 226, and certain instructional materials software 224 have already been downloaded. The materials are displaying objects in screen area 220, forwarding events to the agent and receiving agent management or controls, as indicated by arrow 227. The agent is displaying its persona(e) in screen area 215, interacting

⁴ *Id.*

with the materials, as represented by arrow 227, and is referencing and updating data in student data model 226, as represented by arrow 228.

The Applicant respectfully submits that this recitation from Cook does not disclose or suggest the recitations in claim 34 “classifying a user into one of a predetermined number of body type categories” and “selecting a cyclic variations in altitude conditioning program based upon the user's categorization.” There is no disclosure of classifying body types, and no disclosure of selecting a cyclic variations in altitude conditioning program based upon a user's body type. The assertion by the Examiner that these recitations in claim 34 would be obvious in view of the disclosure above in Cook is completely conclusory and without basis. The Applicant respectfully asserts that the gap between AAPA in view of Shusterman, Butler or Cook and the currently pending claims is “so great as to render the [claims] nonobvious to one reasonably skilled in the art.”⁵

Accordingly, for at least the above reasons, the Applicant respectfully submits that independent claim 34 is allowable over the cited references. Based at least upon their dependence on independent claim 34, claims 36-37 and 44 are also allowable.

Claim 35 and its Dependent Claims are Allowable

Claim 35 recites, in part, “measuring via a user sensor at least one parameter of a user's body condition during the first session” and “determining whether a value of said at least one measured parameter is within a predetermined range, and if within said predetermined range, allowing said first predetermined program to continue, and if not within said predetermined range, initiating in real time a second session of cyclic variations in altitude conditioning within said pressure vessel, said second session being different than said first session, said second session including a second predetermined program configured to cause rapid transitions between simulated altitudes in said pressure vessel according to cycles determined by said second predetermined program based upon the user's categorization and current body condition.” For similar reasons as discussed above for claim 34, none of AAPA, Shusterman, Butler or Cook, alone or combined, disclose or suggest such a method.

⁵ *Id.*

Specifically, for similar reasons as discussed above for claims 34, none of the cited references disclose or suggest a method that includes initiating in real-time a second session of cyclic variations in altitude conditioning within a pressure vessel based on a value of at least one measured parameter of a user's body condition, as recited in claim 35. Further, as discussed above for claim 34, none of the cited references disclose or suggest "classifying a user into one of a predetermined number of body type categories" and "selecting a cyclic variations in altitude conditioning program based upon the user's categorization" as recited in claim 35. The Applicant respectfully asserts that the gap between AAPA in view of Shusterman, Butler or Cook and the currently pending claims is "so great as to render the [claims] nonobvious to one reasonably skilled in the art."⁶

Accordingly, for at least the above reasons, the Applicant respectfully submits that independent claim 35 is allowable over the cited references. Based at least upon their dependence on independent claim 35, claims 38-39 and 45 are also allowable.

No Admission Regarding Claim 24

In rejecting dependent claim 24, the Examiner asserts that "Applicant agrees that it is well known in the art to provide payment methods to a system through a controlling kiosk or on the system through bill receptors, change receptors, magnetic strips, smart cards, radio frequency, keypad entry of identification, keypad entry of credit information, etc." The Applicant respectfully submits that no such admission has been made. More specifically, in the Reply filed March 3, 2008, the Applicant specifically disagreed with the Examiner's Official Notice that providing such payment methods was well known in the art.

⁶ *Id.*

Conclusion

All of the stated grounds of rejection in the Office Action have been properly traversed or rendered moot. The Applicant therefore respectfully requests that the Examiner reconsider and withdraw all outstanding rejections. Applicant believes that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that further personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment is respectfully requested.

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